

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #12	CCRB Case #: 201608576	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/07/2016 9:30 PM, Saturday, 10/08/2016	Location of Incident: West 140th Between Lenox Avenue and 7th Avenue	Precinct: 32	18 Mo. SOL 4/7/2018	EO SOL 4/7/2018	
Date/Time CV Reported Tue, 10/11/2016 5:14 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 10/11/2016 5:14 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Moreno	08305	949364	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jesse Zalewski	16876	958193	023 PCT
2. POF Jenny Korotun	01988	954028	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jose Moreno	Abuse: Police Officer Jose Moreno stopped an individual.	
B.POM Jose Moreno	Abuse: Police Officer Jose Moreno stopped § 87(2)(b) Jr.	
C.POM Jose Moreno	Force: Police Officer Jose Moreno pointed his gun at an individual.	
D.POM Jose Moreno	Force: Police Officer Jose Moreno pointed his gun at § 87(2)(b) Jr.	
E.POM Jose Moreno	Abuse: Police Officer Jose Moreno threatened § 87(2)(b) Jr. with the use of force.	

### Case Summary

On October 11, 2016, § 87(2)(b) filed this complaint with the CCRB via the call processing system, on behalf of his § 87(2)(b) year old son, § 87(2)(b) (hereafter referred to as § 87(2)(b) and § 87(2)(b) s § 87(2)(b) year old goddaughter § 87(2)(b) (last name unknown).

On October 7, 2016, § 87(2)(b) and § 87(2)(b) were playing basketball in a park located at West 140<sup>th</sup> Street and Lenox Avenue in Manhattan. Police Officer Jesse Zalewski and Police Officer Jenny Korotun, of the 23<sup>rd</sup> Precinct, entered the park and approached one of § 87(2)(b) s other friends, saying that they had received a call that someone in the park had a gun. § 87(2)(b) and § 87(2)(b) began walking away from PO Zalewski and PO Korotun. Police Officer Jose Moreno, of the 32<sup>nd</sup> Precinct, followed § 87(2)(b) and § 87(2)(b) (**Allegation A, Allegation B**). When § 87(2)(b) and § 87(2)(b) noticed PO Moreno, they ran towards their apartment building, located less than one block away, at § 87(2)(b) PO Moreno pointed his firearm at § 87(2)(b) and § 87(2)(b) as they ran (**Allegation C, Allegation D**). PO Moreno allegedly told § 87(2)(b) to stop running or he would “shoot” him (**Allegation E**).

There is no video evidence regarding this case.

This case is being submitted after the 90-day mark because the case was returned to investigation from mediation.

There were no arrests made or summonses issued regarding this case.

### Mediation, Civil and Criminal Histories

- On May 31, 2017, a Notice of Claim Inquiry returned negative results from the NYC Comptroller's Office (**05 Board Review**).

- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

### Civilian and Officer CCRB Histories

- § 87(2)(b)  
§ 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been party (**08 Board Review**).
- PO Moreno has been a member of service for six years, and has no previous allegations.

### Findings and Recommendations

**Allegation A –Abuse of Authority: Police Officer Jose Moreno stopped an individual.**

**Allegation B- Abuse of Authority: Police Officer Jose Moreno stopped § 87(2)(b)**

§ 87(2)(b) **(02 Board Review)** stated that he was playing basketball with a group of friends, including his god sister § 87(2)(b). While he was playing, he overheard a woman and a man arguing, and heard the woman tell the man “don’t shoot.” § 87(2)(b) did not have any interaction with the woman or the man. Approximately five minutes later, PO Koroton and PO Zelewski entered the park, and said that they had received a call that someone in the park had a gun. § 87(2)(b) and § 87(2)(b) began to walk back to their apartment building, located at § 87(2)(b) where § 87(2)(b) was outside. PO Moreno began following after § 87(2)(b) and § 87(2)(b) and § 87(2)(b) began running towards § 87(2)(b) and PO Moreno ran after them.

§ 87(2)(b) was not available to the investigation, and thus did not provide a statement.

PO Moreno **(04 Board Review)** stated that he and Sergeant Giorlys Alvarez responded to a call for a possible crime of a gun in a park. PO Moreno thought that the description provided was for males in their late teens wearing dark clothing. As PO Moreno and Sgt. Alvarez approached the park, PO Moreno observed PO Zelewski and PO Korotun approach a group of three individuals playing basketball. PO Zelewski, PO Korotun, and the three individuals were approximately twenty feet away from PO Moreno, on the basketball court. The basketball court was not well lit. PO Zelewski and PO Korotun engaged one of the individuals, and the other two walked away from the officers. PO Zelewski and PO Korotun did not attempt to stop either of the two individuals as they walked away. PO Moreno began walking after one of the individuals who walked away, because they were part of the original group that PO Korotun and PO Zelewski stopped. PO Moreno thought that the individual was alone. The individual was wearing tight black leggings and a black sweatshirt, with the hood up. PO Moreno did not speak to Sgt. Alvarez, or PO Zelewski and PO Korotun before pursuing the individual. PO Moreno followed the individual from approximately twenty feet away. The park is enclosed by fences that are approximately six feet high. After the individual had walked for approximately six seconds, they approached one of the fences, ran towards it, and jumped over it. PO Moreno then began to run after the individual, and discovered that the individual was a young female. PO Moreno was shown the CCRB photograph of § 87(2)(b) and stated that he did not see him while he was running after § 87(2)(b) but did observe him standing behind § 87(2)(b) when he caught up to her in front of § 87(2)(b).

PO Korotun **(03 Board Review)** stated that she and PO Zelewski responded to a park in the vicinity of West 140<sup>th</sup> Street and Lenox Avenue for a report of a person in the park with a gun. PO Korotun did not recall the description of the person suspected to have a gun. PO Korotun was shown the CCRB photograph of § 87(2)(b) and did not recall having interacted with him. PO Korotun did not recall interacting with a female in the park. PO Korotun is not familiar with PO Moreno and did not recall interacting with him in the park. PO Korotun and PO Zelewski stopped one black male in his late teens. PO Korotun left the park after interacting with the individual.

The ICAD **(13 Board Review)** shows that the call was made by an anonymous person. The description given was for two black males with dark complexions, one wearing a black hoody, black jeans, and white and red sneakers, and the other wearing a black hoody with their hands in their pocket.



Police Department v Gliner, OATH Index, #955/00 (**10 Board Review**), states that the policy of the Police Department is that an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own or another's personal safety. The determination as to when that exercise of discretion rises to the level of misconduct must be made by assessing the reasonableness of the officer's actions in the totality of the surrounding circumstances.

§ 87(2)(b), § 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation E- Abuse of Authority: Police Officer Jose Moreno threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) stated that as he ran, PO Moreno pointed his firearm at him and yelled, "Stop before I fire."

PO Moreno stated that he yelled "stop running" while he ran after § 87(2)(b) and § 87(2)(b) with his gun pointed, but denied saying, "Stop before I fire," and denied otherwise verbally threatening § 87(2)(b) with the use of force.

§ 87(2)(b), § 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Squad: 12

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date